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January 4, 2018

**VIA ECF**

Honorable Cheryl L. Pollak  
United States Magistrate Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Hector Cordero v. City of New York, et al.  
15-CV-3436 (JBW) (CLP)

Your Honor:

I am a Senior Counsel in the Office of Zachary W. Carter, Corporation Counsel of the City of New York, and the attorney assigned to represent defendants City of New York, Lieutenant Christopher Moran and Officers Hugo Hugasian, John Essig, and Peter Rubin, in the above-referenced matter. Defendants submit this letter respectfully requesting: (1) a brief extension concerning a portion of the Phase II production, from January 5, 2018 to and including January 17, 2018; and (2) clarification from the Court, regarding two items discussed in the Court's Order dated December 13, 2017. Plaintiff takes no position concerning Defendants' application for an extension.

**I. Application for an Extension**

Defendants have been working diligently to comply with the Court's December 13<sup>th</sup> Order that directed Defendants to produce documents pertaining to eleven different topics, in connection with Phase II of the trial. To date, Defendants are prepared to produce documents pertaining to nine of the eleven topics by January 5, 2018, in compliance with the Court's deadline. Despite our diligent efforts, however, Defendants need additional time to produce

documents in connection with: (1) Document Request No. 11 – “random sampling of overtime requests;” and (2) Document Request No. 4 – “documents reflecting the nature and outcome of investigations undertaken by NYPD” regarding adverse credibility determinations.

As for documents related to Document Request No. 11, as a result of technical issues related to the City’s timekeeping database, CityTime, NYPD was unable to access the information responsive to this request for production tomorrow. In order to access information responsive to Request No. 11, a user with department wide city time access must access the system. There are not a large number of these individuals at NYPD. Once the system is accessed, coding language must be created for the randomized sampling, specific to the overtime requests and for the time limitations imposed in the Court’s Order. Upon information and belief, the system is now functioning and NYPD is working on compiling the sampling specific to this request. We expect to be able to produce these documents within the requested extension.

Also, concerning Document Request No. 4, a search was conducted for information responsive to this request which resulted in hundreds of IAB entries, most of which contain sealed information that even the District Attorney’s Office had to move to unseal prior to providing it to IAB. The redaction of this information will take a significant amount of time to apply, which is the basis of Defendants’ extension request concerning this request. However, in the interim, Defendants are prepared to produce information which is responsive to Plaintiff’s request for the “outcomes” of these IAB investigations by tomorrow. Once the additional data is produced, it will be responsive to Plaintiff’s request concerning the “nature” of the investigations undertaken by NYPD. Tomorrow’s production will not include this later information but it can be provided by the requested extended deadline.

## **II. Application for Clarification**

Defendants also respectfully request additional guidance concerning the Court’s December 13<sup>th</sup> ruling related to Document Request Nos. 5 and 6. Document Request No. 6 requests “all documents concerning the City of New York’s implementation of the IG Report recommendations.” For this request, the Court held that the Defendants must produce “data and analysis” during the “subject time period,” which is from 2012 to 2014. It is the Defendants understanding that the data to be produced is any data that NYPD, the subject City agency, could have relied on, in the process of implementing the IG’s recommendation. For the report dated April 20, 2015, Defendants’ request for data or analysis used or relied upon by NYPD in

implementing the IG's recommendation, resulted in no responsive information. Defendants wanted to confirm with the Court though that their interpretation of the Order for this request is accurate.

As to Document Request No. 5, which requests "all documents concerning the City of New York's implementation of the CCPC Report recommendations," the Court ordered Defendants to produce any "statistics and data compiled or reviewed about the relevant time period at issue," specifically from 2012 to 2014. The CCPC Report at issue was released in 2017 and again, NYPD is the subject agency which would have implemented the recommendations from this Commission. In an effort to comply with this request, Defendants sought any statistics and data compiled or reviewed by NYPD, from the period of from 2012 to 2014, concerning NYPD's "implementation" of the CCPC Recommendations." The search resulted in a negative finding. As with Request No. 6, Defendants wanted to confirm with the Court that its interpretation of the Order regarding this request is accurate.

### **III. Conclusion**

As a result of the foregoing, Defendants respectfully request an extension of time from January 5, 2018, to and including January 17, 2018, to produce the remaining discovery for Phase II of trial, and respectfully request further clarification of the aforementioned sections of the December 13<sup>th</sup> Order, if Defendants were not correct in their interpretations.

Defendants thank the Court for its consideration herein.

Respectfully submitted,

/s/

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